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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 97-158
Southwestern Bell	)	
Telephone Company	)	Transmittal No. 2633
	)	
Tariff F.C.C. No. 73	)	

OPPOSITION TO DIRECT CASE OF SOUTHWESTERN BELL TELEHONE COMPANY

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SUMMARY

In its Designation Order, the Bureau identified numerous inadequacies in Southwestern Bell Telephone Company's ("SWBT's") Transmittal No. 2633 that raised significant questions of lawfulness, and directed SWBT to answer specific questions designed to develop an adequate evidentiary record to make the factual and legal determinations necessary to rule on the lawfulness of SWBT's proposed tariff. In each and every instance, however, SWBT has failed to provide the information sought by the Bureau and, thus, has utterly failed to demonstrate, as is its burden, that its proposed RFP tariff is lawful.

For example, as discussed in more detail below, the Bureau specifically sought comment on the whether the instant tariff, which the Bureau specifically held to be "a type of contract tariff," is currently prohibited under the Commission's policies governing contract tariffs. SWBT failed to engage in any discussion of this issue, claiming merely that "SWBT has not filed it RFP tariff as a contract tariff." The Bureau further directed SWBT to explain "how the interstate access market conditions are similar to the market conditions that existed in the interexchange market when competitive necessity was available to AT&T as a dominant carrier;" "whether the current form of the competitive necessity defense should be applied to SWBT. . . or whether it should be modified in any way;" and "what types of evidence would be sufficient to establish the first prong of the [competitive necessity] test in the circumstances presented by SWBT's transmittal." None of the requested information was provided by SWBT.

The Bureau also specifically required SWBT "to identify the specific [CAP tariffed] rate that corresponds to each rate element that it uses in its price calculation [and to] compute the total price for comparable CAP services, and then fully explain and document the methodology, assumptions, and data it uses to make its calculations." Any substantive response to this explicit data request is also glaringly lacking from SWBT's Direct Case.

In short, Southwestern Bell has submitted no information whatsoever which would dispel the serious concerns of lawfulness raised by the petitioners, and confirmed by the Bureau in it Designation Order. In particular, SWBT has failed entirely to demonstrate that the competitive necessity doctrine – the linchpin of its tariff filing – currently applies to dominant LECs such as SWBT, or should apply in this specific case. Moreover, even if that standard were to apply here, SWBT has failed to show that the instant transmittal satisfies the three prongs required of a competitive necessity showing.

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OPPOSITION TO DIRECT CASE OF
SOUTHWESTERN BELL TELEHONE COMPANY

Pursuant to the Order Designating Issues for Investigation issued by the Common Carrier Bureau ("Bureau"),[1] AT&T Corp. ("AT&T") hereby files its Opposition to the Direct Case of Southwestern Bell Telephone Company ("SWBT").[2]

I. TRANSMITTAL NO. 2633 VIOLATES THE COMMISSION'S POLICY PROHIBITING DOMINANT LECS FROM OFFERING CONTRACT TARIFFS

The Bureau seeks comment on whether the instant RFP tariff, which the Bureau specifically holds to be "a type of contract tariff," is currently prohibited under the Commission's policies governing contract tariffs.[3] SWBT responds that "there is no order

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1 Southwestern Bell Telephone Company, Tariff F.C.C. No. 73, Transmittal No. 2633, Order Designating Issues for Investigation, DA 97-1472 (rel. July 14, 1997) ("Designation Order"). By Order dated June 13, 1997, the Bureau had suspended for five months the pending tariff and initiated an investigation into the lawfulness of those tariffs. Southwestern Bell Telephone Company, Tariff F.C.C. No. 73, Transmittal No. 2633, Suspension Order, DA 97-1251 (rel. June 13, 1997) ("Suspension Order").

2 In the above-referenced transmittal, Southwestern Bell proposes to modify its interstate access tariff to provide offerings at rates other than those already contained in its tariffs in response to requests for proposals ("RFPs") submitted by Southwestern Bell's customers (referred to herein as the "RFP tariffs"). Petitions against Transmittal No. 2633 were filed by AT&T, MCI and Sprint.

3 Designation Order at paras. 17-18.

(footnote continued on following page)

cited by the Designation Order that supports this proposition" and, in all events, "SWBT has not filed its RFP tariff as a contract tariff."[4] This response is not only inadequate, it is disingenuous at best.

First, SWBT cannot escape the limitations applicable to contract tariffs by refusing to acknowledge its filing as a contract tariff. Clearly, SWBT's offering of a customized service to a specific customer contains all of the elements that the Commission has recognized as constituting a contract tariff.[5] It is also patently clear that, on their face, the proposed tariffs – limited as they are to specific customers and distinct locations, and offering rates that depart from the rates offered under SWBT's generally available tariffs for the identical services – raise issues of reasonableness and discrimination.[6] It is also beyond dispute that SWBT's filing does not comport with the Commission's rules applicable to contract tariffs – rules that were crafted as specific and limited exceptions to the traditional approach to discriminatory tariffs[7] – because those rules currently apply only to tariffs "based on a service contract entered into between [a price cap] interexchange carrier . . . or

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4 Direct Case at 3.

5 See, e.g., Competition in the Interstate, Interexchange Marketplace, 6 FCC Rcd 5880, 5898-99 (1991) ("IXC Competition Order").

6 Suspension Order at para. 9.

7 See IXC Competition Order at 5902-03 (the Commission adopted specific filing requirements for contracts tariffs to ensure that they "comply fully with the provisions in the Act").

a nondominant carrier and a customer"[8] – criteria that plainly exclude dominant LECs such as SWBT.

In an apparent acknowledgment that the Commission has, to date, not extended the flexibility of contract tariffs to dominant LECs, SWBT notes that this very issue is the subject of consideration in the Access Reform NPRM.[9] Yet without submitting even a fraction of the factual analyses that the Bureau has requested to determine whether a competitive situation exists here, SWBT insists that "the Bureau must determine, immediately, that the competitive necessity defense applies to tariffs such as those filed by SWBT." Lacking the legal underpinnings to make such a finding here, and the factual basis to support new regulatory treatment of its tariff filing – which SWBT has declined to provide – the Bureau cannot make such a determination.

II. TRANSMITTAL NO. 2633 FINDS NO SUPPORT IN THE DS-3 ICB ORDER

In response to the Bureau's request for analysis of whether the instant transmittal is an ICB tariff and the legal implications stemming from such a finding, SWBT states that it has not filed the transmittal as an ICB tariff.[10] Although that may in fact be the case, SWBT liberally relies on the Commission's DS-3 ICB Order as justification for its position that "competitive pricing" is applicable to dominant LECs "under certain

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[8] 47 C.F.R. § 61.3(m).

[9] Direct Case at 3; Designation Order at para. 18, referring to Access Charge Reform, Notice of Proposed Rulemaking and Third Report and Order, 11 FCC Rcd 21354 (1996)("Access Reform NPRM").

[10] Direct Case at 3-4.

situations."[11] In this regard, however, the Commission has consistently ruled that ICB pricing is a limited exception to the nondiscrimination requirements of the Communications Act, solely applicable to new services as an interim measure until generally available, averaged rates can be developed.[12] This policy offers no support whatsoever for the permanent discounted contract pricing of already-existing services by a dominant LEC, which is the case here.

III. TRANSMITTAL NO. 2633 VIOLATES SECTION 69.3(e)(7) OF THE COMMISSION'S RULES REQUIRING DOMINANT LECS TO OFFER AVERAGED RATES THROUGHOUT THEIR INDIVIDUAL STUDY AREAS

In its Direct Case, SWBT appears to claim that the instant transmittal does not violate the rate averaging requirements of Section 69.3(e)(7) of the Commission's Rules, 47 C.F.R. § 69.3(e)(7). According to SWBT, that Section "does not state the exceptions to it which have been formed by other Commission rules and policies," and because "the competitive necessity doctrine is merely another one of those exceptions," that doctrine also constitutes a recognized exception to Section 69.3(e)(7).[13]

The instant tariff transmittal contains rates for existing high capacity access services of specific applications that differ from the generally available rates otherwise offered by SWBT in the applicable study areas, and thus on its face is a violation of this rate averaging rule. While the Commission has created specific exceptions to the rule –

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[11] See SWBT, Tariff F.C.C. No. 73, Transmittal No. 2633, Description and Justification ("D&J"), filed May 1, 1997, pp. 2-4, citing Local Exchange Carriers' Individual Case Basis DS-3 Service Offerings, Memorandum Opinion and Order, 4 FCC Rcd 8634 (1989) ("DS-3 ICB Order").

[12] DS-3 ICB Order at 8641-42.

individual case basis tariffs, contract carriage offerings, and zone density pricing[14] – it has not addressed whether the competitive necessity doctrine can or should create such an exception for the offerings of dominant LECs. For SWBT to conclude not only that the competitive necessity doctrine applies to the instant tariff filing, but also creates a specific exemption from the Commission's geographic averaging rules, suggests a new form of policy- and rule-making by omission that finds no support under either the Commission's rules or the general due process requirements of the Administrative Procedure Act. As was the case with individual case basis tariffs, contract carriage offerings, zone density pricing, and other policies that carve exceptions to the traditional application of statutory criteria, the Commission has extended the competitive necessity doctrine only upon findings of fact specific to the market at issue. For SWBT to contend here that such exceptions apply unless specifically exempted turn those policies – and the Commission's rule-making authority – on its head. What is clear, in contrast, is that unless and until the Commission makes a specific determination that the competitive necessity doctrine applies to dominant LECs in general –

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13 Direct Case at 4.

14 See Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145 Phase I, 97 F.C.C. 2d 1082, 1143 (1984); Local Exchange Carriers' Individual Case Basis DS3 Service Offerings, 4 FCC Rcd 8634, 8643 (1989)(carriers may offer services at ICB rates on an interim basis, pending the tariffing of the service as a generally available offering at averaged rates); IXC Competition Order at 5881 (finding that business services are sufficiently competitive for IXCs to offer such services pursuant to individual offerings); Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7369,7451-57 (1992) ("Zone density pricing is a system that permits LECs gradually to deaverage their special access rates by zones in a study area."), recon., 8 FCC Rcd 7341, vacated in part and remanded sub nom. Bell Atlantic Tel. Cos. v. FCC, 24 F.3d 1441 (1994), reaffirmed on remand in pertinent part, 9 FCC Rcd 5154, 5192-5200 (1994).

or SWBT in the instant case – the instant tariff transmittal constitutes a prima facie violation Section 69.3(e)(7).[15]

IV. EVEN IF THE COMPETITIVE NECESSITY DOCTRINE WERE TO APPLY HERE, SWBT HAS UTTERLY FAILED TO COMPLY WITH ITS REQUIREMENTS

In a thoughtful and reasoned effort to develop a full record on which to determine whether the competitive necessity doctrine should apply to offerings by dominant LECs and under what conditions, the Bureau directed SWBT to address several specific questions designed to probe the competitiveness of the interstate access market and the LECs' ability to comply with the competitive necessity standard as currently constituted.[16] Ignoring entirely this directive to provide substantive evidence, including, for example, "how the interstate access market conditions are similar to the market conditions that existed in the interexchange market when competitive necessity was available to AT&T as a dominant carrier,"[17] SWBT merely responds that the competitive necessity doctrine never explicitly

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[15] Moreover, as the Bureau correctly notes (Designation Order at paras. 13-14), SWBT's off-handed request for a waiver of the DS-3 ICB Order or other Commission rules or policies fails to meet the legal standards for grant of a waiver.

[16] Designation Order at paras. 24-35. A carrier's proof of competitive necessity should include a showing that: (1) an equal or lower priced competitive alternative – a similar offering or set of offerings from other common carriers or customer-owned systems – is generally available to customers of the discounted offering; (2) the terms of the discounted offering are reasonably designed to meet competition without undue discrimination; and (3) the volume discount contributes to reasonable rates and efficient services for all users. Private Line Rate Structure and Volume Discount Practices, 97 F.C.C. 2d 923, 948 (1984).

[17] Designation Order at para. 24.

excluded the offerings of dominant LECs, and thus "the Commission cannot now determine that the opposite holds."[18]

SWBT's non-response provides no legitimate justification for first-time application of the competitive necessity doctrine to a dominant LEC's access offering. SWBT itself concedes that the competitive necessity doctrine provides the framework for a showing that an otherwise discriminatory tariff filing is reasonable and lawful.[19] Commission precedent also confirms that such a showing is by its terms limited to situations where substantial competition exists; indeed in instances where competition is not firmly established, such pricing flexibility can stifle emerging competition before competitors can gain a meaningful foothold in the market.[20]

Accordingly, a determination as to whether the competitive necessity test is available in a market is highly fact-specific. On this basis, the Bureau asked pointed and relevant questions concerning the level of competition in the interstate access market – questions that SWBT declined to address. Lacking the factual basis to extend the

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[18] Direct Case at 4-6.

[19] See Suspension Order at para. 5; Private Line Guidelines Order, 97 F.C.C.2d at 947-48 ("For purposes of Section 202 of the Communications Act, a carrier may be able to meet its burden of proving a competitive necessity justification for a lower rate without showing that each customer taking the discounted offering actually would switch to an equal or lower-priced alternative.").

[20] See, e.g., Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd at 7451 ("inadequate restrictions on LEC special access pricing and rate structure could permit competitive abuses, stifling competitive entry and placing excessive cost burdens on customers of less competitive services").

competitive necessity doctrine to the instant situation, the Bureau has no choice but to refrain from doing so here.[21]

In order to determine what evidentiary showing of competitive necessity best conforms to the needs of the interstate access marketplace, the Bureau directed the parties to address "whether the current form of the competitive necessity defense should be applied to SWBT. . . or whether it should be modified in any way."[22] Again, SWBT refused to respond to this specific question, and stated instead that because the Bureau had previously "assumed, arguendo," that the competitive necessity doctrine was available, it may not "assume" otherwise in this instance.[23] Again, SWBT weaves out of whole cloth the absurd notion that because the Commission's prior "descriptions" of the competitive necessity standard did not distinguish between types of carriers, the Commission is foreclosed from finding that the standard is not applicable to dominant LECs, or even that the standard may require a different evidentiary showing for dominant LECs in competitive bid situations.

SWBT's position here is especially puzzling, because the Bureau, in exploring whether the proof required of dominant LECs in a competitive bid situation should differ from the current standard, clearly was mindful of SWBT's claim that it is difficult to

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[21] SWBT's glib statements in its Direct Case (at 7-8) that "[a]ccess is merely an artificial distinction created by divestiture" and is not technically different from interexchange service, and its unsupported claim that "[t]here is overwhelmingly enough evidence to conclude that the access marketplace is more competitive than the interexchange marketplace was when the Commission first granted it competitive necessity" not only are absurd on their face, but do not offer the factual predicates required by the Bureau to make the findings that SWBT seeks here.

[22] Designation Order at para. 25.

[23] Direct Case at 7.

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ascertain competitors' prices for purposes of satisfying the first prong of the test because competitors' tariffs are vague.[24] In fact, the Bureau specifically asked the parties to address "what types of evidence would be sufficient to establish the first prong of the [competitive necessity] test in the circumstances presented by SWBT's transmittal."[25] Instead of addressing this critical question, SWBT relied on its own mischaracterization of the D.C. Circuit Court's decision in a similar case to conclude that "the Commission is prohibited from strictly interpreting the first prong against SWBT, and must allow SWBT to satisfy it as SWBT has done."[26] Specifically, SWBT appears to claim that the Court's ruling that the Commission's rejection of a similar SWBT RFP tariff under the competitive necessity standard (without defining the evidence that SWBT could have submitted to meet the first prong of the competitive necessity test) was arbitrary and capricious gives SWBT "carte blanche" to provide the sort of loose justification that it has submitted here as proof of the availability of an equal or lower priced offer.[27]

Contrary to SWBT's baseless legal argument, in deference to the D.C. Circuit Court's Order the Bureau is in this case affirmatively addressing the issue of whether, and on what terms, a carrier can comply with the requirement that it demonstrate the existence of an

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[24] See Designation Order at para. 25.

[25] Id. at para. 27.

[26] Id.

[27] Direct Case at 9, citing Southwestern Bell Telephone Company v. FCC, 100 F.3d 1004 (D.C. Cir. 1996).

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equal or lower-priced offer in a competitive bid situation. Yet again, instead of providing the Commission with the evidence that the Court indicated should have been considered in the prior instance, SWBT has chosen to evade any meaningful analysis of allegedly competitive offers by asserting that the Commission must, as a matter of law, "bend the rules" for it. Neither the Commission nor the Court of Appeals has required such a result; to the contrary, they compel the very sort of factual inquiry that SWBT has evaded here.

Finally, even if the Bureau were to conclude that the competitive necessity doctrine is applicable to the instant tariff filings – a conclusion that is plainly not supported by SWBT's showing here – SWBT has failed to provide any evidence which would demonstrate that it has met the competitive necessity standard as currently defined. First, in order to develop further information about whether SWBT did or could meet the first prong of the competitive necessity standard, the Bureau specifically required SWBT "to identify the specific [CAP tariffed] rate that corresponds to each rate element that it uses in its price calculation [and to] compute the total price for comparable CAP services, and then fully explain and document the methodology, assumptions, and data it uses to make its calculations."[28] SWBT merely attached a few CAP tariff pages, and resubmitted the undocumented pricing examples it originally submitted in its D&J.[29] There is no detailed analysis whatsoever, as was required by the Bureau. SWBT instead merely characterizes

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[28] Id. at para. 29.

[29] Direct Case at 10-11.

these tariff examples as "probably comparable to a DS3 service" at rates previously submitted in its D&J, and concludes that "[t]his evidence is more than sufficient to satisfy the first prong of the competitive necessity test."[30] This showing – which does not represent a credible analysis of competitors' offers – falls far short of the governing legal standard.[31]

The Bureau also sought comment, relevant to this prong of the competitive necessity test, "as to the weight, if any, that should be given to the issuance of one or more

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[30] Id. However, a close analysis of SWBT's submission proves just the opposite. SWBT's Exhibit A to the Direct Case contains pages from MFS' tariff for Frame Relay Service, which is not a similar service in any respect to the high capacity services at issue in the RFPs, and thus offers erroneous evidence of comparable CAP services.

[31] Conspicuously absent from SWBT's Direct Case is any discussion of how AT&T, when it was a dominant carrier, proposed to satisfy this prong of the competitive necessity test in competitive bid situations. AT&T included affidavits from knowledgeable sales personnel which provided AT&T's good faith evidence that lower bids were submitted. See, e.g., AT&T Revisions to Tariff F.C.C. No. 15, Transmittal No. 1215, CC Docket No. 88-471, rejected on other grounds, 4 FCC Rcd 7933, 7934 (1989); AT&T Revisions to Tariff No. 15, Transmittal Nos. 1854 and 1883, CC Docket No. 90-11, rejected on other grounds, 6 FCC Rcd 5648 (1991). Cf. Great Atlantic & Pacific Tea Co., Inc. v. Federal Trade Commission, 440 U.S. 69, 82 (1979) ("The test for determining when a seller has a valid meeting-competition defense [under the Robinson-Patman Act] is whether a seller can show the existence of facts which would lead a reasonable and prudent person to believe that the granting of a lower price would in fact meet the equally low price of a competitor. A good-faith belief, rather than absolute certainty, that a price concession is being offered to meet an equally low price offered by a competitor is sufficient to satisfy the § 2(b) defense") (citations omitted). SWBT's failure even to raise this manner of compliance strongly suggests that it could not so comply. Moreover, because this proposed method of compliance with the first prong of the competitive necessity test was not addressed by the Commission in its prior Order which was subject to remand by the D.C. Circuit, the Court clearly could not have reviewed this solution to the issue of "proving" that equal or lower priced offers are available. The Bureau should take notice of AT&T's practice if it decides to reach the issue of whether the competitive necessity standard applies here. However, in light of SWBT's insufficient showing that the competitive necessity doctrine should be available to it in this instance, there are ample grounds for the Bureau not to even reach that issue.

RFPs in determining the extent of competition."[32] SWBT's response that "[t]he issuance of one RFP should be sufficient to determine that competition exists"[33] plainly offers an inadequate basis for the Bureau to determine the extent of competition in the interstate interexchange market. As MCI – itself often a customer seeking bids for interstate access services – pointed out in this proceeding, RFPs are often issued in order to gauge the extent of competition in a market, and are thus not by themselves evidence of competition.[34] Thus the mere existence of an RFP should be given no weight in determining the existence or extent of competition, and SWBT has offered no evidence that the Commission should find otherwise.[35]

Second, SWBT's failure to comply with the Bureau's directive that it "fully explain and document the methodology, assumptions, and data it uses to make its [competitive pricing] calculations" is also fatal to its showing that is meets the second prong of the competitive necessity test. As was the case with SWBT's initial tariff filing, there is no

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[32] Designation Order at para. 30.

[33] Direct Case at 11-12.

[34] MCI Petition at 8-10.

[35] In fact, SWBT concedes that not all RFP situations demonstrate that substantial competition exists. In its Direct Case, SWBT (at 14-15) admits that it does not intend to respond to every RFP with a discounted offer. If the mere existence of an RFP demonstrates the existence of substantial competition, as SWBT appears to contend, then SWBT would rationally respond in each case with a competitive bid. Moreover, suggesting as it does that its failure to respond would not "harm" that customer underscores the unfettered flexibility to discriminate between customers that SWBT ultimately seeks. Its failure to explain in detail how it would define a "competitive situation" heightens, rather than dispels, the serious concerns of discrimination that the Bureau has already identified. See Designation Order at para. 33.

evidence from which the Bureau can validate SWBT's estimate of competitive carriers' prices, and in particular SWBT failed to respond to the Bureau's request for information sufficient to enable the Bureau "to estimate the rates that are available to Coastal."[36] Thus there is no way for the parties to address, or the Bureau to determine, whether SWBT has narrowly tailored its competitive response to meet competition without undue discrimination.[37]

Third, even if SWBT's prices are above cost for the services being offered, as the Bureau contends,[38] the broader public policy issue of whether this tariff offering "contributes to reasonable rates and efficient services for all users" must be considered in the context of the competitive marketplace that exists for interstate access services. Until such time as the Commission rules on the level and robustness of competition in the interstate access market – an issue squarely before the Commission in the Access Reform NRPM and one that SWBT was asked, but failed, to address here – it would be premature for the

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[36] Id. at para. 31.

[37] SWBT's restrictions on the geographic availability of the proposed tariffs appear to be so tightly limited as to render them violative of the Commission's requirement that the discounted service be available to all "similarly situated customers." Designation Order at paras. 32-33. SWBT has not convincingly rebutted Sprint's concern, echoed by the Bureau in its Designation Order, id., that no other customers would, as a practical matter, be able to obtain the same service at the same rates. Moreover, SWBT ignored completely any discussion of Commission precedent which found similar geographic restrictions unlawful. AT&T Communications, Revisions to Tariff F.C.C. No. 12, Memorandum Opinion and Order, 4 FCC Rcd 7928, 7938-39 (1989), rev'd on other grounds sub nom. MCI v. FCC, 917 F.2d 30 (D.C. Cir. 1990).

[38] Designation Order at para. 34.

Bureau to conclude that maintenance of a dominant LEC's revenue stream alone is sufficient justification for the pricing flexibility that it seeks here.[39]

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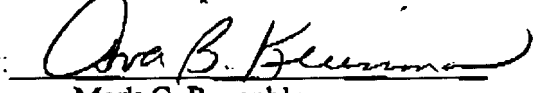
[39] The Bureau seeks comment (at para. 35) on whether the competitive necessity test operates as a complete defense to any violation of the Communications Act, or Commission rule or policy. SWBT cryptically responds that it "does not claim that the competitive necessity doctrine services as an exemption to the statute, but only to the Commission's interpretations of that statute." This is a non sequitur, because the Communications Act is enforced by the Commission through "interpretations of that statute." Thus it appears that SWBT does in fact claim that any finding of unlawfulness of a tariff filed under a competitive necessity justification cannot stand. Direct Case at 15-16. As with any tariff filing, and as has been the case with prior tariff filings by interexchange carriers that were justified under competitive necessity, unless found lawful by the Commission after investigation, such tariffs would be subject to the complaint procedures of Sections 207 and 208 of the Communications Act.

CONCLUSION

It is abundantly clear that SWBT has not made the showing required by the Bureau to justify the extraordinary departure from the Commission's existing rules and policies that it seeks for the instant tariff filings. For the reasons stated above, AT&T respectfully requests that the Bureau reject the SWBT tariffs at issue here.

Respectfully submitted,

AT&T Corp.

By: 

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August 28, 1997

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 28th day of August, 1997, a copy of the foregoing "Opposition to Direct Case of Southwestern Bell Telephone Company" was served by U.S. first class mail, postage prepaid, to the parties listed below.

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